

CALIFORNIA TAHOE CONSERVANCY

GUIDELINES AND CRITERIA FOR THE LAND ACQUISITION PROGRAM September 2005

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I. Acquisition of Environmentally Sensitive Lands and Lands Necessary to Protect the Natural Environment

Summary of California Tahoe Conservancy Land Acquisition Criteria

Government Code Section 66907 provides authority for the Conservancy to acquire real property or interest therein for:

1. The purposes of protecting the natural environment;
2. Providing public access or public recreational facilities;
3. Preserving wildlife habitat areas; or
4. Providing access to or management of acquired lands.

Adopted Conservancy acquisition criteria under these four authorities are described in further detail that follows.

1. The purposes of protecting the natural environment

- A. Environmentally Sensitive Lands Acquisition Program - The Conservancy's program for the purchase of environmentally sensitive lands was initially adopted in April 1985, with land acquisition criteria modified on several occasions in April 1986, May 1987, July 1988, September 1988, and February 1989 to also encompass significant resource lands and lands necessary to protect the natural environment. This criteria is outlined below.

1. Undeveloped lands which meet one or more of the following:
 - IPES scores less than or equal to 725 points
 - Confirmed low Bailey Land Capability in the event no IPES information
 - Substandard parcels without one or more of the following utilities: paved access, water, sewer, or electric, or less than 1,200 square feet of potential land coverage.
 - Man-modified parcels that have at least 1,000 square feet of disturbed area
 - Two or more parcels under the same ownership where at least one of the parcels meets the above criteria

B. Land Coverage Program - In October 1987, the Conservancy authorized the development and implementation of a land coverage program, including the acquisition of parcels under specified criteria containing existing or potential land coverage. The acquisition of land coverage parcels has been included since that time as a component of the program to acquire lands necessary to protect the natural environment. The eligibility criteria for land coverage parcels has been defined as follows:

1. Undeveloped lands which meet one or more of the following:
 - IPES scores greater than 725 but less than 776
 - Parcels with some Stream Environment Zone (SEZ) regardless of IPES score
 - Parcels that buffer or border a SEZ regardless of IPES score or parcels where utilities or access would have to cross a SEZ in order to develop the parcel
 - Parcels with slopes in the range of 25 to 30%
2. Improved parcels with derelict structures, including existing pavement or foundations, whether or not within a SEZ

Additional guidelines for the acquisition of environmentally sensitive lands are outlined in Appendix A.

C. Stream Environment Zone and Watershed Restoration Program

1. Parcels that could restore and enhance SEZ and watershed areas which can serve multiple resource benefits, including improvement of water quality, soil erosion control, enhancement of wildlife and fisheries habitat, enhancement of vegetation and scenic resources, and provision of public access and interpretive opportunities.
2. Parcels that contribute towards the goal of restoring approximately 850 acres of SEZ on the California side of the Lake Tahoe Basin.

D. Erosion Control Grants Program

Undeveloped lands, or the undeveloped portion of improved lands, that are necessary for the implementation of water quality improvement projects.

2. Providing public access or public recreational facilities

Parcels that can increase and enhance significant regional public access and recreational opportunities by providing access to regionally significant lakefront, riverfront, and natural areas that receive or can accommodate significant visitor use.

3. Preserving wildlife habitat areas

Parcels that maintain or enhance key and significant habitat areas that serve, or could serve, as habitat for identified endangered, rare, threatened, special interest or sensitive species.

4. Providing access to or management of acquired lands

No adopted criteria.

II. Donation and Dedication Guidelines for the Conservancy's Land Acquisition Program were modified by the Conservancy Board in 2005, and those guidelines are attached as Appendix B.

Appendix A

Additional Criteria For Acquisition Of Environmentally Sensitive Lands

California Tahoe Conservancy Criteria for the Evaluation of Environmentally Sensitive Lots in the Lake Tahoe Basin for Possible Acquisition under the Tahoe Conservancy Act of 1984 and the Lake Tahoe Acquisitions Bond Act of 1982
(adopted April 19, 1985; April 18, 1986; May 21, 1987; July 22, 1988; September 23, 1988; February 17, 1989; and September 16, 2005).

The California Tahoe Conservancy (Conservancy) has authorized staff to take steps and expend funds necessary to initiate landowner contacts and other pre-acquisition and assessment activities for up to 7,400 undeveloped parcels needed to protect the natural environment in all watersheds on the California side of the Tahoe Basin. Such lots shall be evaluated by staff for possible acquisition pursuant to the following criteria:

- a. The lot or parcel has not been designated or reserved for acquisition by the U.S. Forest Service under the Burton-Santini program;
- b. The landowner(s) has/have indicated a willingness to sell;
- c. The lot or parcel is confirmed to be environmentally sensitive or is needed to protect the natural environment;
- d. Title to the lot or parcel can be conveyed in an acceptable condition;
- e. The physical condition of the property is acceptable;
- f. The lot or parcel can be conveyed free of property ownership fees;
- g. The lot or parcel is not subject to easements, rights-of-way, covenants, conditions and restrictions, or other restrictions (excluding deed restrictions of sensitive lands) which render the acquisition unnecessary;
- h. Acquisition of the lot or parcel meets the resource objectives and requirements of the Tahoe Conservancy Act (Government Code section 66905 et seq.) and the Lake Tahoe Acquisitions Bond Act of 1982 (Government Code section 66950 et seq.).

Acquisition of eligible lots shall be subject to review and approval by the Conservancy board and the allocation and availability of funds for this program.

Appendix B

GUIDELINES AND CRITERIA FOR PROPOSED DONATIONS AND DEDICATIONS OF INTERESTS IN REAL PROPERTY TO, **AND NOMINAL-COST ACQUISITIONS OF REAL PROPERTY BY,** THE CALIFORNIA TAHOE CONSERVANCY (Adopted - September 16, 2005)

INTRODUCTION

The following guidelines and criteria are intended to serve as guidance for the staff of the California Tahoe Conservancy in reviewing and evaluating proposals for Conservancy acceptance of donations and dedications of interests in real property and nominal-cost acquisitions of deed-restricted parcels.

AUTHORITY

The California Tahoe Conservancy is authorized under Section 66907.2 of the Government Code to "accept and hold real property or any interest therein acquired through gift, exchange, donation or dedication." The Conservancy is further authorized under Section 66907 of the Government Code to "select and acquire real property and interests therein, in the name of and on behalf of the state, for the purposes of protecting the natural environment, providing public access or public recreational facilities, preserving wildlife habitat areas, or providing access to or management of acquired lands."

GENERAL GUIDELINES AND CRITERIA FOR DONATIONS AND DEDICATIONS

OF INTERESTS IN REAL PROPERTY

1. Purposes and Objectives: In general, Conservancy acceptance of the donation or dedication of an interest in real property, or the nominal-cost acquisition of a deed-restricted property (as defined below), shall further at least one of the following purposes and objectives:

- (a) protection of the natural environment;
- (b) enhancement of public access opportunities or public recreational facilities;
- (c) preservation of wildlife habitat areas; or
- (d) improvement of access to or management of acquired lands.

For purposes of these guidelines, "protection of the natural environment" includes projects to accept environmentally sensitive lands (high-hazard areas as defined under the Bailey System; stream environment zones [SEZs]; sensitive shorezone lands; parcels disturbed or modified by man; substandard parcels due to size, lack of paved access, or lack of public utilities; and parcels scoring less than 726 points under an Individual Parcel Evaluation System [IPES] evaluation), lands needed for the Conservancy's coverage program, and lands which have scenic or open-space value.

In the preceding sentence, "nominal-cost acquisition" refers to the acquisition of property for a nominal consideration to be determined by the Conservancy. The term "deed-restricted property" refers to a property on which all, or substantially all, of the common-law development rights (excluding development rights or credits arising solely under the ordinances of the Tahoe Regional Planning Agency) have been extinguished, in perpetuity, by recordation of a conservation easement, open-space easement, or covenants running with the land.

2. Appropriateness of Conservancy Action: Where it appears that another public agency or public interest entity is better able to carry out the necessary land management functions or otherwise achieve maximum public benefit from the donation or dedication, and that entity wishes to accept the donation or dedication, it will be the general policy of the Conservancy to defer to the other entity.

3. Land Management: Whenever feasible before recommending the acceptance of donations or dedications of lands or easements for purposes which would involve public access and entry, staff shall prepare a land management plan that provides for such activities as regular periodic inspection of the site, revegetation where appropriate, periodic clearance of brush and litter, and control of nuisances and hazards to or from surrounding property. Where possible, management and maintenance arrangements shall be carried out in cooperation with other public agencies or nonprofit organizations, especially those which are already engaged in managing nearby lands.

As required by Government Code Section 66907, the Conservancy will not develop, nor enter into any contract or agreement which would result in the development of lands acquired through donation or dedication, except in conformance with a basinwide management plan.

4. Completeness of the proposal: In general, the following documents and information are needed for a complete donation or dedication proposal:

- a. Grant or quitclaim deed, properly executed and acknowledged, with a legally sufficient description of the property to be conveyed to the State.
- b. A plat map of the property.
- c. An estimate of the approximate land areas encompassed by the parcel and by any improvements.

- d. A description of the condition of the land and any improvements.
- e. A preliminary title report or commitment for a CLTA standard title insurance policy, showing title in the State of California free and clear of all unacceptable liens and encumbrances (generally including all monetary encumbrances and liabilities), to be updated to the date of recordation of the gift deed. However, in the case of a donation of a parcel that would otherwise be eligible for acquisition by the Conservancy, liens, back taxes, bonded indebtedness or other monetary encumbrances may be paid off by the State if the sum total of encumbrances is substantially below the fair market value of the property being donated.
- f. A site inspection sheet.
- g. An estimate of a range of value for the property.

SUPPLEMENTARY GUIDELINES AND CRITERIA FOR EASEMENTS AND
OTHER LESS-THAN-FEE INTERESTS. (INCLUDING TRAIL EASEMENTS,
ACCESS EASEMENTS, OPEN-SPACE EASEMENTS, CONSERVATION
EASEMENTS, ETC.)

In addition to the above guidelines and criteria which apply to all donations and dedications or nominal-cost acquisitions, the following shall apply to donations and dedications of less-than-fee interests.

1. Term and provisions: At a minimum, the deed or granting instrument shall contain the following:

- a. Legally sufficient descriptions of the interest to be conveyed and the parcel on which the easement is located.
- b. A description of the uses allowed or the restrictions imposed upon the servient estate (encumbered land).
- c. A clause relieving the Conservancy and the State of California from responsibility for maintenance or management of the land or any improvements thereon, except areas or improvements (if any) which are opened to entry and use by the general public pursuant to the terms of the easement.
- d. A clause absolving the Conservancy and the State of California of responsibility for payment of any real property taxes or other assessments levied against the land.

- e. A clause giving the Conservancy discretion to determine under what circumstances a cause of action to enforce the terms of the easement or agreement, at law or in equity, will arise.
- f. A clause stating that any forbearance on the part of the Conservancy to enforce any provisions of the easement or agreement shall not be deemed a waiver of the Conservancy's rights to enforce that or subsequent breaches.
- g. A clause providing that the Conservancy may pursue any appropriate legal or equitable remedies for breach of the terms and restrictions of the easement or agreement.
- h. A clause allowing the grantee to assign the granted interest to another public agency or nonprofit organization.

The following provisions shall be contained in deeds or grants of restrictive easements, such as open-space or conservation easements:

- i. A clause confirming that the State of California accepts no duties, or responsibilities with respect to, and no right of control over, the servient estate (encumbered land) which would subject the State to any liability, by virtue of the fact that the right of the State, its successors and assigns, to enter upon the land is strictly limited to preventing uses inconsistent with the interest granted and does not include the right to go on the land for the purpose of correcting any dangerous condition, as defined in Government Code Section 830.
- j. A clause authorizing the Conservancy and its officers, agents, and contractors to enter upon the land periodically, at times reasonably acceptable to the owner, to ensure that the restrictions are being observed.
- k. A clause providing that remedies for breach of the restrictions by the owner of the servient estate shall include: (i) injunction to force a termination of the breaching activity; (ii) injunction to force the restoration of all damage done by such activity; and (iii) such further relief as may be available at law or in equity.

2. Accompanying documents: Subordination agreements in favor of the Conservancy shall be executed and recorded by the holders or beneficiaries of any liens or encumbrances which have been recorded prior to the deed or grant of easement, and which could interfere with the Conservancy's ability to exercise or enforce the easement.

3. Data file: The data file for the donation of the less-than-fee interest shall include, in addition to items listed above under "General Guidelines", the following:

- a. A plat of the property upon which the easement or encumbered area has been traced.

- b. An estimate of the area of the servient parcel.
- c. A description of the size, dimensions, etc., of any improvements lying within the encumbered area.
- d. Documentation, including photographs, of the condition of the land at the time the interest is created ("baseline condition").